



Review of a determination by the IPSA Contingency Panel to refuse an application.

Antoinette Sandbach

Former Member of Parliament for Eddisbury.

Tracy Hawkings

Compliance Officer for IPSA

November 2020

Introduction

1. This review has been conducted following a request by Antoinette Sandbach, the former MP for Eddisbury, to consider a decision of the IPSA contingency panel process to refuse to pay for rental and removal costs outside of the designated wind-up period following the December General Election.
2. IPSA publishes and operates The Scheme of MPs' Business Costs and Expenses (the Scheme) in exercise of the powers conferred on it by section 5(3)(a) of the Parliamentary Standards Act 2009. "The Scheme is intended to ensure that MPs' use of taxpayers' money is well regulated and that MPs are resourced appropriately to carry out their parliamentary functions."¹
3. The guidance which applies in this case comes under Chapters Four, Eight and Ten of the "The Scheme" (Eleventh Edition).
4. Ms Sandbach lost her seat in the December 2019 General Election. The Scheme allows for a two-month wind-up period, which affords MPs the opportunity to close down the running of their parliamentary business and constituency offices. If additional expenditure occurs as a result, they are permitted to claim from their wind-up budget. There is a proviso within the Scheme that IPSA will continue to pay for rental and associated costs during the two-month wind-up period and removal costs.
5. Ms Sandbach was unable to make the necessary arrangements to move in to her privately owned property during the wind-up period and remained in rented accommodation beyond that date.
6. MS Sandbach made an application to the IPSA contingency panel on 14/02/2020 and argued that the circumstances in her case were exceptional.
7. The case was heard at the contingency panel meeting on 27/02/20. The application was not upheld and in light of this, she made a request to the Compliance Officer to conduct a review on 26th May 2020.

¹ The Scheme of MPs' Business Costs and Expenses (Eleventh edition – Introduction).

8. *Section 6A of the Parliamentary Standards Act 2009* (the Act) provides that if:

(1)(a) the IPSA determines under section 6(3)² that a claim is to be refused or that only part of the amount claimed is to be allowed, and

(b) the member (after asking the IPSA to reconsider the determination and giving it a reasonable opportunity to do so) asks the Compliance Officer to review the determination (or any altered determination resulting from the IPSA's reconsideration).

(2) The Compliance Officer must -

(a) consider whether the determination (or the altered determination) is the determination that should have been made, and

(b) in light of that consideration, decide whether or not to confirm or alter it.

9. Paragraph 9 of the notes for Guidance on the Conduct of Reviews by the Compliance Officer for IPSA states that:

“The Compliance Officer will, taking into account all information, evidence and representations, decide whether the determination (or the altered determination) is the determination that should have been made under the Scheme and in light of that, whether or not to confirm or alter it”.

10. As IPSA had conducted an internal review through the Contingency panel process, there is no impediment to the Compliance Officer accepting the request for a review from Ms Sandbach.

The Review

11. In conducting the review, the Compliance Officer has utilised the eleventh edition of the Scheme.

12. In addition, the Compliance Officer has conducted the following enquiries:

- ◇ Reviewed the contingency panel application submitted by Ms Sandbach.
- ◇ Reviewed the minutes of the contingency panel meeting which considered the application.
- ◇ Reviewed the notes held on the IPSA case records management system.
- ◇ Sought additional information from Ms Sandbach.

² Section 6(3) of the Act states that on receipt of a claim, the IPSA must – (a) determine whether to allow or refuse the claim, and (b) if it is allowed, determine how much of the amount claimed is to be allowed and pay it accordingly.

- ◇ Conducted open research in to births, deaths and marriages.
- ◇ Sought additional information from the Policy and Assurance team.

The Basis for the Review request by Ms Sandbach.

13. As previously stated, the application subject of this review, relates to rental and removal costs associated with Ms Sandbach's private constituency accommodation beyond the two-month wind-up period. The sum of money subject of the application was £5725.00 which can be broken down as follows: £1925.00 for one month's rent and £3800 for removal costs.
14. Ms Sandbach purchased a property in her constituency of Eddisbury in September 2016. The property had a sitting tenant, who at that time was 98 years old. Ms Sandbach was unable to determine the lease unless the tenant decided to vacate the property or in the event of their death. (The tenant did not pay rent to Ms Sandbach).
15. Ms Sandbach believed that given the age of the tenant and the provisions of the *Fixed Term Parliament Act 2011*, there did not appear to be a particular concern at the time of purchasing the property. Indeed, it was reasonable to expect that the Parliament would remain in place until May 2020. Likewise, following the General Election in 2017, it was reasonable to expect that the next election would not take place until June 2022.
16. Following the snap General Election on 12th December 2019, Ms Sandbach served notice on the personal representatives of her tenant. The notice was served on 17th December 2020, after Ms Sandbach was belatedly informed of the tenant's death. Ms Sandbach argues that the property lease required a three month notice to quit notice which meant it would not be available to her until March 2020.
17. Ms Sandbach applied for one month's additional rental payments on the grounds her circumstances were exceptional. She knew she would incur personal rental costs for some months to come whilst renovation work was carried out on the property.
18. In relation to removal costs, Ms Sandbach applied to the contingency panel in advance, knowing she would not be able to move in to her property for some months to come. The costs were calculated on the basis of a previous move.

19. Ms Sandbach believes her circumstances were exceptional and argues that IPSA could have exercised their discretion as they are allowed to do. She had funds remaining in her wind-up budget which would have covered the costs.
20. In the letter she sent to the Compliance Officer, Ms Sandbach requested the dates of her original application for rental costs be extended to 13th May due to restrictions imposed by the co-vid 19 virus on sales, lettings, removals and construction work.

Position of IPSA

21. This matter was considered by the IPSA Contingency panel held on 27th February 2020. The panel rejected the application made by Ms Sandbach on the basis that as Ms Sandbach was remaining in the rental property pending renovation works to her private home, she should be liable to pay the rental costs. The panel also noted that Ms Sandbach could use the normal winding-up budget to claim for removal costs if she claimed them before the end of the winding-up period which expired on 28/02/20. IPSA cannot pay for removal costs outside of the winding-up period as a result of a former MP's private living arrangements. The panel suggested that one option which could be considered was the removal of items in to a storage facility.

Considerations by Compliance Officer.

22. In conducting this review, the Compliance Officer has to decide whether or not there are any grounds to overturn the decision or part of the decision of the contingency panel.
23. The guidance on the contingency panel process is set out in Section 10.10 of "the Scheme" which states:

IPSA may decide to accept or reject an application at its discretion. In considering its decision IPSA shall take in to account the following factors:

- a. whether there are exceptional circumstances warranting additional support;*
- b. whether the MP could reasonably have been expected to take any action to avoid the circumstances which gave rise to the expenditure or liability; and*

c. whether the MP's performance of parliamentary functions will be significantly impaired by a refusal of the claim.

24. The Compliance Officer believes there are other areas of the Scheme which are relevant and need to be considered in this case. These are listed in appendix one to this report.
25. The matters the Compliance Officer has to consider in this case is whether or not the circumstances were exceptional and whether the MP could have reasonably been expected to take any action to avoid the circumstances which gave rise to the expenditure. The third strand at paragraph 23.c above is not a factor in this case as by the time the application had been made to the contingency panel, Ms Sandbach was no longer an MP.
26. To take each point in turn. The dictionary meaning of the word “exceptional” is “unusual” or “not typical”. Ms Sandbach argues that her circumstances were exceptional on the basis that she could not move out of her rental property and in to her privately-owned home because the lease could not be surrendered until March 2020 when the three months’ notice period expired. The break notice was not served until 17th December following two significant events. Firstly, Ms Sandbach lost her seat and secondly her sitting tenant had passed away.
27. Ms Sandbach argues that at the time she purchased the property in 2016, she could reasonably have expected to be in office until May 2020 as MPs are elected for a five-year term of office. Furthermore (Albeit she had already purchased the property by then) the General Election in 2017 meant she should have remained in office until 2022. Due to the age of her tenant in 2016, it was highly unlikely they would still be occupying the property in 2020. Ms Sandbach has argued her circumstances were exceptional. The Compliance Officer has interpreted the word “exceptional” in the context of the Scheme to mean, the exceptional circumstances arose in connection with the MP’s parliamentary role and not due to a set of personal circumstances. The Compliance Officer does not agree that the circumstances of the expenditure can be deemed to be exceptional in this case.
28. The second strand which has to be satisfied is the question of whether or not an MP could have reasonably avoided the circumstances which gave rise to the claim. Ms Sandbach has stated she was informed about the death of her tenant belatedly, and served the notice to quit at the earliest opportunity (17th December) albeit she has not provided the exact date the information was

received. In this context, Ms Sandbach was effectively the landlord and cannot completely absolve herself from the responsibility of keeping herself updated on the situation regarding her tenant. The Compliance Officer has conducted some open research and found a bereavement notice in a local paper which announced the death of the tenant and gave the date of the funeral to be 5th November 2019. It is not unreasonable to assume, the death occurred sometime in October. Therefore, it follows either the notice did not need to be served at all as the tenant had died or the notice to quit could have been served some six weeks to eight weeks before 17th December. Whichever way this point is considered, the only conclusion the Compliance Officer can come to is that Ms Sandbach could have reasonably avoided the circumstances which gave rise to the rental costs outside of the wind-up period.

29. The question of removal costs is a separate issue. The Scheme states that “The winding-up budget is designed to meet the costs of completing the outstanding parliamentary functions of former MPs” It goes on to say: “The winding-up budget is available to former MPs following a general election either because they have not stood for election, or because they have lost their seat at the election. It is also available to those who cease to be MPs during a Parliament”. (Para 8.2) and “Former MPs may claim for winding-up costs incurred for a maximum of two months. For former MPs who either stand down or lose their seats at a general election, this two-month period starts from the day after the election.”. (Para 8.3)

30. The contingency panel could not approve Ms Sandbach request because she was unable to facilitate a move from her rental accommodation and claim for removal costs during the wind-up period. IPSA in an effort to be helpful suggested that Ms Sandbach arrange for her effects to be moved in to storage facilities during the wind-up period. This was not possible for a number of reasons, the main one being her application was considered on 27th February and the wind-up period ended on 28th. There are circumstances where IPSA could consider an extension of the wind-up period, but not in this case. The rules on this at paragraph 8.4 state “IPSA may make provision to extend the winding-up period beyond two months in exceptional circumstances or in the event an MP has been recalled and is contesting a by-election to return to Parliament.

31. The Compliance Officer cannot overturn the decision of the contingency panel because they have correctly applied the rules under the “Scheme”. The “Scheme” does allow for the exercise of discretion but that is not applicable in this case. The Scheme states at paragraph 10.19 “In

addition to any other payments or assistance provided by this Scheme, IPSA may, at its discretion and on an individual basis, provide any additional financial assistance to MPs it deems necessary to assist them in carrying out their parliamentary functions”.

Conclusion

32. The Compliance Officer has concluded that the decision of the IPSA contingency panel was correct in respect of their decision not to approve Ms Sandbach application for rental and removal costs outside of the wind-up period.
33. Prior to concluding the review, the Compliance Officer sent a copy of the provisional findings to both Ms Sandbach and IPSA offering them the opportunity to make representations. On Ms Sandbach contacted the Compliance Officer and indicated a wish to make representations to the provisional report. The representations made can be seen at appendix two.
34. On the Compliance Officer sent the representations made by Ms Sandbach to IPSA and asked for a formal view on the information provided. The response from IPSA can be found at appendix three.
35. The final deliberations of the Compliance Officer can be found at appendix four.
36. Section 6A (6) of the Act provides that an MP requesting a review may appeal the decision of the Compliance Officer to a ‘First-tier Tribunal’ if they are not satisfied with the outcome. The appeal must be submitted within 28 days of receiving the decision. Further information on how to appeal a decision by the Compliance Officer can be found at the following address: <https://www.gov.uk/guidance/mp-expenses-appeal-a-compliance-officers-decision>.
37. In accordance with the Guidance on the Conduct of Reviews by the Compliance Officer for IPSA, details of the review will be published in a manner decided by the Compliance Officer.

Recommendations

None

Tracy Hawkings

Compliance Officer for IPSA

Appendix One – Relevant Areas of the Scheme

Para 4.6

MPs may only claim for accommodation costs in relation to a property at one location, which may be either in the London Area, or in the MP's constituency, unless IPSA agrees that there are exceptional circumstances that justify claims for properties in both.

4.14

Removal costs for moving to new accommodation may be claimed from the contingency fund. No pre-approval is required. Other costs associated with moving, including any legal costs, must be claimed from the accommodation costs budget.

4.25

MPs should negotiate a clause in their contracts to allow them to give two months' notice in the event of a change in circumstances, such as losing their seat at a general election. They will only be able to claim for rent and associated costs during the two-month winding-up period after the election. Any further costs beyond that period will not be funded by IPSA, unless MPs can demonstrate that they were unavoidable.

The winding-up budget is designed to meet the costs of completing the outstanding parliamentary functions of former MPs. This includes the costs of closing down constituency offices.

Para 8.2

The winding-up budget is available to former MPs following a general election either because they have not stood for election, or because they have lost their seat at the election. It is also available to those who cease to be MPs during a Parliament.

Para 8.3

Former MPs may claim for winding-up costs incurred for a maximum of two months. For former MPs who either stand down or lose their seats at a general election, this two-month period starts from the day after the election. For those who cease to be MPs during a parliament, the winding-up period starts on the day after the seat is vacated.

Para 8.4

IPSA may make provision to extend the winding-up period beyond two months in exceptional circumstances or in the event an MP has been recalled and is contesting a by-election to return to Parliament.

Para 8.8

MPs may continue to claim for accommodation rental payments and/or associated costs for a maximum of two months after leaving Parliament. These costs will be met from the contingency fund.

Para 10.8

MPs may apply to IPSA for a contingency payment, under the following circumstances: a. where they have incurred a cost, or liability for a cost, which is not covered by the Scheme, but which they consider to be in support of their parliamentary functions; b. where their spending under a particular budget has exceeded or may exceed the budget limit for the year and they consider this to be the result of exceptional circumstances.

Para 10.10

IPSA may decide to accept or reject an application under paragraph 10.8 at its discretion. In considering its decision IPSA shall take in to account the following factors: a. whether there are exceptional circumstances warranting additional support; b. whether the MP could reasonably have been expected to take any action to avoid the circumstances which gave rise to the expenditure or liability; and c. whether the MP's performance of parliamentary functions will be significantly impaired by a refusal of the claim.

Para 10.19

In addition to any other payments or assistance provided by this Scheme, IPSA may, at its discretion and on an individual basis, provide any additional financial assistance to MPs it deems necessary to assist them in carrying out their parliamentary functions.

Appendix Two – Representations from Ms Sandbach

38. On 27th October 2020, Ms Sandbach contacted the Compliance Officer indicating her wish to make representations to the adjudication made in the provisional report. The provisional report was sent to the personal assistant of Ms Sandbach as he was the person who made the original request for a review on her behalf. It does not appear as though the report was forwarded to Ms Sandbach by her employee. The Compliance Officer did not send a copy to Ms Sandbach herself and this was an oversight for which the Compliance Officer has acknowledged and apologised. The representations will now be considered and are detail below.
39. The original review by the Compliance Officer upheld the decision of the contingency panel who adjudicated that Ms Sandbach was not entitled to claim an additional month's rent outside of the two-month wind up period because her circumstances were such, she was unable to move in to her privately owned accommodation. The panel did adjudicate, Ms Sandbach could claim removal costs and place her furniture in storage pending a final move but this was not feasible for two reasons: 1. The application was heard on 27th February and the wind-up period expired on 28th February ((due to a late submission as opposed to any delay from IPSA considering the application) and 2. The furniture could not be moved to Ms Sandbach private accommodation as extensive renovation work was required and the 3 month break notice in the property lease was still in force at that time.
40. The argument presented by Ms Sandbach was her circumstances were exceptional. She was prevented from moving out of her rental accommodation and into her private residence, due to the fact she purchased her private accommodation in 2016 with an elderly sitting tenant and had to provide three-months' notice to quit. In addition, before the property was fit for residence, extensive renovation work needed to be completed. Ms Sandbach argued that had it not been for the calling of a snap election, she would have been able to comply with the terms of the lease.
41. Both the contingency panel and Compliance Officer deduced that her circumstances were not exceptional as defined under the Scheme.

Representations

42. Ms Sandbach, in her representations wants to adduce further evidence that her circumstances were exceptional. The below is a direct quote from Ms Sandbach:

“I do wish to adduce more evidence. This is disclosed on a basis that what is contained in it contains personal and confidential medical information relative to me, my daughter (who was a minor at the time) and my husband and therefore should not be disclosed in any FOI without discussion with me, and my family and on the basis that confidential financial and personal information is kept as such. (This is acknowledged by the Compliance Officer and any future publication of this report will be suitably redacted or summarised).

43. You have claimed that I should have taken more time to inform myself of the tenant’s position. It was my understanding that the executors were required to serve notice on me. They didn't. Following the election, I sought advice from IPSA and a lawyer and followed that advice. Mr Bowman has shorthand notes of the advice given to me and has transcribed them and sent them to IPSA. (These appear as an appendix at the end of this section of the report).
44. You have failed to take into account the other factors going on in September/October and November for me - which included the removal of the whip, a deselection meeting and my move to the local liberal democrats the dissolution of Parliament and a general election. Unsurprisingly I wasn't reading the local paper, and there isn't one which covers the constituency. Perhaps you could advise me which local paper ran the advert you referred to. I was also coping with a number of threats that had been made to my life and that of my family which had been reported to police and which placed additional stress on all of us as a family.
45. My daughter was diagnosed with ADHD on the 20th March as well as a number of other medical conditions requiring medication and minimal disruption to her life. She was due to take her A Levels that summer and it wasn’t reasonable to move for a number of reasons because of her mental health. Clearly the psychiatric appointment was arranged long before the 20th March.
- (a). The house was not fit for human habitation (the tenant was on a full repairing lease so the tenant was responsible for the upkeep the heating and electrics were over 40 years old) as a listed building it required planning consent for any alterations and therefore it was not possible for me to move as you have claimed. Planning was only granted in July and by that time I had been diagnosed with cancer. We have been forced to put the house on the market and will not be moving there at all.
- (b) My daughter’s mental health issues prior to and during lockdown meant that we couldn’t move, and indeed my subsequent health issues also mean that we have not been able to move. However, when we are able to move it is my contention that we should have our costs reimbursed. The only reason we were based in Eddisbury was because I was the MP for the

Constituency. My husband suffers from depression and the way I was treated by the local conservative association meant that he went onto antidepressants for the first time in our married life. He is a self-employed artist.

(c) I fail to understand the relevance of putting our furniture into storage - the constituency home has always been our main home - so that is an irrelevant and pointless suggestion - what are you suggesting we should have done once all our furniture was in storage and where are you suggesting that we should have lived? My family have paid my rent as I was not earning any income at the time and I didn't qualify for any government assistance during lockdown. Should you require a letter which proves this, this can be provided".

Appendix Three – Response from IPSA

46. Following receipt of the representations from Ms Sandbach, on 6th November 2020, the Compliance Officer provided IPSA with a copy and requested a formal response on whether or not any of the additional information provided by Ms Sandbach fell under the definition of exceptional circumstances in the context of ‘The Scheme’ and criteria for additional funding under the contingency panel process.

47. On 20th November, the following response was received:

“Thank you for sharing Ms Sandbach’s further representations in relation to your review. It is clear that Ms Sandbach and her family have faced an exceptionally difficult period since she left Parliament.

However, that this does not impact on IPSA’s position regarding whether Ms Sandbach’s accommodation costs can be funded by the taxpayer. We consider such costs to be personal rather than parliamentary, and notwithstanding the difficulties faced by Ms Sandbach and her family, our view remains that IPSA cannot continue to fund accommodation costs for an individual who is no longer an MP, beyond the two-month winding-up period”.

Appendix Four – Final adjudication from the Compliance Officer

48. The Compliance Officer has considered the additional information provided by MS Sandbach very carefully and looked again at whether the circumstances as outlined by Ms Sandbach can be defined as ‘exceptional’ and whether or not IPSA could have used discretion in relation to this matter, based both on the original information and subsequently the additional information.

To take each point in turn:

Position with the sitting tenant

49. The Compliance Officer is willing to acknowledge the point, that Ms Sandbach had an expectation she would be notified of any changes in the circumstances of the sitting tenant, as opposed to proactively making enquiries herself. There was a six-week period between the calling of the election on 6th November and the date on the election on 12th December. There was nothing to prevent Ms Sandbach from making the enquiry during that period or requesting that her legal representatives do so.
50. The Compliance Officer also acknowledges, there was a significant amount of upheaval for Ms Sandbach professionally between September and November 2019, as there was for many other MPs, however, the Compliance Officer remains of the view, the notice to quit the property could have been served much earlier than 17th December.

Health of family

51. The Compliance Officer acknowledges the difficult personal circumstances Ms Sandbach and her family have experienced from a health perspective since she left Parliament and how regrettable that is.
52. The Compliance Officer (and IPSA) have to consider exceptional circumstances in a professional context, as that is the context in which, MPs are eligible to claim expenses from the public purse.
53. There are occasions when discretion can be applied to circumstances which fall outside of the Scheme but this also has to be considered in a professional sense, namely if the additional monies are not paid to an MP by IPSA, it would have a detrimental affect on their ability to perform their parliamentary role. It is only in these circumstances that discretion can be applied.

Fitness for habitation

54. The Compliance officer acknowledges that the private property of Ms Sandbach required renovation work before it was fit for occupancy and this could only take place after the property had been vacated and planning permission obtained.
55. The rules under the Scheme are very clear and state IPSA will continue to pay rent for a two-month period following an MP losing their seat. The rules under the Scheme, also say at paragraph 4.25

4.25

“MPs should negotiate a clause in their contracts to allow them to give two months’ notice in the event of a change in circumstances, such as losing their seat at a general election. They will only be able to claim for rent and associated costs during the two-month winding-up period after the election. Any further costs beyond that period will not be funded by IPSA, unless MPs can demonstrate that they were unavoidable”.

56. Ms Sandbach lease had a three month notice period included in the terms, and so the terms of the lease did not comply with the guidance under the ‘Scheme’ and Ms Sandbach has not at any point, provided any information as to why it was not possible to negotiate a two-month break notice.

The winding-up budget is designed to meet the costs of completing the outstanding parliamentary functions of former MPs. This includes the costs of closing down constituency offices”.

Furniture in storage

57. The Compliance Officer did not suggest, Ms Sandbach should place her furniture in storage, but referred to the fact this had been suggested as an option by the contingency panel.
58. The rules on this point under the Scheme are clear and quoted below:

4.14

“Removal costs for moving to new accommodation may be claimed from the contingency fund. No pre-approval is required. Other costs associated with moving, including any legal costs, must be claimed from the accommodation costs budget.

As Ms Sandbach did not move out of her rented accommodation within the two-month wind-up period, the contingency panel were unable to approve the request”.

Conclusion

59. Although the Compliance Officer has some sympathy for the circumstances of Ms Sandbach, they have adjudicated the original decision of the contingency panel is the correct one.
60. The Scheme has been correctly interpreted and applied by IPSA. The exceptional circumstances which have arisen linked to expenditure have to apply to the parliamentary role of an MP. Equally, the circumstances in which IPSA can apply discretion for claim which fall outside of the Scheme, also have to be linked to the parliamentary role of an MP. In this case, Ms Sandbach elected to purchase a property with a sitting tenant and entered into a lease agreement which did not conform to the guidance as set out in the Scheme.
61. Section 6A (6) of the Act provides that an MP requesting a review may appeal the decision of the Compliance Officer to a ‘First-tier Tribunal’ if they are not satisfied with the outcome. The appeal must be submitted within 28 days of receiving the decision. Further information on how to appeal a decision by the Compliance Officer can be found at the following address: <https://www.gov.uk/guidance/mp-expenses-appeal-a-compliance-officers-decision>.
62. In accordance with the Guidance on the Conduct of Reviews by the Compliance Officer for IPSA, details of the review will be published in a manner decided by the Compliance Officer.